

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 628

Introduced by Senator Yee

February 18, 2011

An act to amend Sections ~~4925, 4927, and 4937~~ of 27, 101, 130, 144, 149, 205, 730.5, 800, 4925, 4927, 4928, 4928.1, 4935, 4937, 4955, 4955.1, 4955.2, 4956, 4959, 4960.2, 4961, 4965, 4966, 4967, 4969, 4970, 4974, and 4975 of, to add Section 4964.5 to, and to add Article 3 (commencing with Section 4950) to Chapter 12 of Division 2 of, the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as amended, Yee. Acupuncture: regulation.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. *The unlawful practice of acupuncture is a crime.*

This bill would retitle the act as the *Traditional Chinese Medicine Licensure Act*, would change the designation of "acupuncturist" to ~~Doctor of Traditional~~ "Traditional Chinese Medicine Practitioner," and would define the term "Traditional Chinese Medicine" to be identical to the term "acupuncture." The bill would expand the scope of authorized activities for these practitioners under their license to include the performance of traumatology, as defined. *The bill would also create a process for the certification of traumatologists who would be authorized to practice traumatology without a license as an*

acupuncturist if practicing traumatology on or before a specified date, and would create a subcommittee within the board to implement the certification of traumatologists, subject to specified criteria. The bill would set forth procedures for the renewal of an unexpired or expired certificate to practice traumatology, and set forth provisions related to unprofessional conduct and disciplinary action of a traumatologist. The bill would provide that the practice of traumatology without a certificate to practice traumatology or a license to practice acupuncture is a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Traditional Chinese Medicine (TCM) comprises a system
4 of health care that originated in China more than 5,000 years ago
5 and has been provided in the United States for more than 150
6 years. TCM is a comprehensive system for the assessment and
7 treatment of acute and chronic disorders, as well as preventative
8 health care and maintenance.

9 (b) The first written documentation on TCM is the Hung-Di
10 Nei-Jing, known as the Yellow Emperor's Canon of Internal
11 Medicine. Hung-Di Nei-Jing is the oldest medical textbook in the
12 world; different opinions date the book back to between 800 BCE
13 and 200 BCE. The Yellow Emperor's Canon of Internal Medicine
14 lays a primary foundation for the theories of Chinese medicine,
15 which extensively summarizes and systematizes the previous
16 experience of treatment and theories of medicine, such as the
17 meridian theory, as well as many other issues, including, but not
18 limited to, physiology, pathology, prevention, diagnosis, treatment,
19 acupuncture, moxibustion, and tui na.

1 (c) *The Chinese medical text that first describes acupuncture*
2 *was in this book. Forms of acupuncture also include Chimsul,*
3 *which is part of traditional Korean medicine, and Kampo, which*
4 *is part of traditional Japanese medicine. Ancient Chinese text also*
5 *reveals that the medical benefits of massage therapy were*
6 *recognized early on. The tradition of massage therapy in China*
7 *evolved from the knowledge and approaches of doctors practicing*
8 *TCM to include the beliefs of martial artists, Buddhists, and*
9 *Taoists.*

10 (d) *Traditional Chinese Medicine was formally systemized in*
11 *the 1950s under the People's Republic of China. Government*
12 *researchers were sent throughout China to collect and document*
13 *the practices and theories of TCM. The Traditional Chinese*
14 *Medicine we know today is the official Chinese medicine practice*
15 *that was derived from this research.*

16 (e) *Currently in California, practitioners of TCM are recognized*
17 *as licensed acupuncturists. Acupuncture is one of the many*
18 *modalities within TCM. This nomenclature is misleading and*
19 *problematic as the scope of practice of a licensed acupuncturist*
20 *includes other modalities of TCM and not just acupuncture.*

21 (f) *Further, traumatology is one of the modalities that constitutes*
22 *TCM. It is a very important part of TCM science with a complete*
23 *theoretical system. Traumatology, like orthopedics, includes a*
24 *range of treatments to address both acute and chronic*
25 *musculoskeletal conditions, as well as many nonmusculoskeletal*
26 *conditions.*

27 (g) *Before China systemized its health care system, individuals*
28 *acquired their mastery of traumatology through a*
29 *master-apprentice relationship. Individuals learned from a master*
30 *through hands-on training. Although highly skilled, it is extremely*
31 *difficult for these practitioners to obtain proof of their training to*
32 *qualify for the existing requirement for licensure as an*
33 *acupuncturist. A group of these practitioners reside in the State*
34 *of California.*

35 (h) *Accordingly, it is the intent of the Legislature in enacting*
36 *this measure to do the following:*

37 (1) *Change the name of the Acupuncture Board to the*
38 *Traditional Chinese Medicine Board and change the designation*
39 *of an individual who achieves licensure as an acupuncturist as a*
40 *licensed Traditional Chinese Medicine Practitioner.*

(2) *Create a process by which a currently practicing traumatologist is able to obtain licensure as a traumatologist by demonstrating expertise in traumatology in accordance with established standards and criteria, to be administered by a subcommittee under the Traditional Chinese Medicine Board.*

SEC. 2. *Section 27 of the Business and Professions Code is amended to read:*

27. (a) Each entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) ~~The Acupuncture~~ *Traditional Chinese Medicine Board* shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

1 (3) The Dental Board of California shall disclose information
2 on its licensees.

3 (4) The State Board of Optometry shall disclose information
4 regarding certificates of registration to practice optometry,
5 statements of licensure, optometric corporation registrations, branch
6 office licenses, and fictitious name permits of its licensees.

7 (5) The Board for Professional Engineers and Land Surveyors
8 shall disclose information on its registrants and licensees.

9 (6) The Structural Pest Control Board shall disclose information
10 on its licensees, including applicators, field representatives, and
11 operators in the areas of fumigation, general pest and wood
12 destroying pests and organisms, and wood roof cleaning and
13 treatment.

14 (7) The Bureau of Automotive Repair shall disclose information
15 on its licensees, including auto repair dealers, smog stations, lamp
16 and brake stations, smog check technicians, and smog inspection
17 certification stations.

18 (8) The Bureau of Electronic and Appliance Repair shall disclose
19 information on its licensees, including major appliance repair
20 dealers, combination dealers (electronic and appliance), electronic
21 repair dealers, service contract sellers, and service contract
22 administrators.

23 (9) The Cemetery and Funeral Bureau shall disclose information
24 on its licensees, including cemetery brokers, cemetery salespersons,
25 cemetery managers, crematory managers, cemetery authorities,
26 crematories, cremated remains disposers, embalmers, funeral
27 establishments, and funeral directors.

28 (10) The Professional Fiduciaries Bureau shall disclose
29 information on its licensees.

30 (11) The Contractors' State License Board shall disclose
31 information on its licensees in accordance with Chapter 9
32 (commencing with Section 7000) of Division 3. In addition to
33 information related to licenses as specified in subdivision (a), the
34 board shall also disclose information provided to the board by the
35 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

36 (12) The Board of Psychology shall disclose information on its
37 licensees, including psychologists, psychological assistants, and
38 registered psychologists.

39 (13) The Bureau for Private Postsecondary Education shall
40 disclose information on private postsecondary institutions under

1 its jurisdiction, including disclosure of notices to comply issued
2 pursuant to Section 94935 of the Education Code.

3 (c) “Internet” for the purposes of this section has the meaning
4 set forth in paragraph (6) of subdivision (e) of Section 17538.

5 *SEC. 3. Section 101 of the Business and Professions Code is*
6 *amended to read:*

7 101. The department is comprised of:

- 8 (a) The Dental Board of California.
- 9 (b) The Medical Board of California.
- 10 (c) The State Board of Optometry.
- 11 (d) The California State Board of Pharmacy.
- 12 (e) The Veterinary Medical Board.
- 13 (f) The California Board of Accountancy.
- 14 (g) The California Architects Board.
- 15 (h) The Bureau of Barbering and Cosmetology.
- 16 (i) The Board for Professional Engineers and Land Surveyors.
- 17 (j) The Contractors’ State License Board.
- 18 (k) The Bureau for Private Postsecondary Education.
- 19 (l) The Bureau of Electronic and Appliance Repair, Home
20 Furnishings, and Thermal Insulation.
- 21 (m) The Board of Registered Nursing.
- 22 (n) The Board of Behavioral Sciences.
- 23 (o) The State Athletic Commission.
- 24 (p) The Cemetery and Funeral Bureau.
- 25 (q) The State Board of Guide Dogs for the Blind.
- 26 (r) The Bureau of Security and Investigative Services.
- 27 (s) The Court Reporters Board of California.
- 28 (t) The Board of Vocational Nursing and Psychiatric
29 Technicians.
- 30 (u) The Landscape Architects Technical Committee.
- 31 (v) The Division of Investigation.
- 32 (w) The Bureau of Automotive Repair.
- 33 (x) The Respiratory Care Board of California.
- 34 (y) ~~The Acupuncture~~ *Traditional Chinese Medicine* Board.
- 35 (z) The Board of Psychology.
- 36 (aa) The California Board of Podiatric Medicine.
- 37 (ab) The Physical Therapy Board of California.
- 38 (ac) The Arbitration Review Program.
- 39 (ad) The Physician Assistant Committee.
- 40 (ae) The Speech-Language Pathology and Audiology Board.

- 1 (af) The California Board of Occupational Therapy.
- 2 (ag) The Osteopathic Medical Board of California.
- 3 (ah) The Naturopathic Medicine Committee.
- 4 (ai) The Dental Hygiene Committee of California.
- 5 (aj) The Professional Fiduciaries Bureau.
- 6 (ak) Any other boards, offices, or officers subject to its
- 7 jurisdiction by law.

8 *SEC. 4. Section 130 of the Business and Professions Code is*
9 *amended to read:*

10 130. (a) Notwithstanding any other provision of law, the term
11 of office of any member of an agency designated in subdivision
12 (b) shall be for a term of four years expiring on June 1.

13 (b) Subdivision (a) applies to the following boards or
14 committees:

- 15 (1) The Medical Board of California.
- 16 (2) The California Board of Podiatric Medicine.
- 17 (3) The Physical Therapy Board of California.
- 18 (4) The Board of Registered Nursing.
- 19 (5) The Board of Vocational Nursing and Psychiatric
- 20 Technicians.
- 21 (6) The State Board of Optometry.
- 22 (7) The California State Board of Pharmacy.
- 23 (8) The Veterinary Medical Board.
- 24 (9) The California Architects Board.
- 25 (10) The Landscape Architect Technical Committee.
- 26 (11) The Board for Professional Engineers and Land Surveyors.
- 27 (12) The Contractors' State License Board.
- 28 (13) The State Board of Guide Dogs for the Blind.
- 29 (14) The Board of Behavioral Sciences.
- 30 (15) The Court Reporters Board of California.
- 31 (16) The State Athletic Commission.
- 32 (17) The Osteopathic Medical Board of California.
- 33 (18) The Respiratory Care Board of California.
- 34 (19) The ~~Acupuncture~~ *Traditional Chinese Medicine* Board.
- 35 (20) The Board of Psychology.

36 *SEC. 5. Section 144 of the Business and Professions Code is*
37 *amended to read:*

38 144. (a) Notwithstanding any other provision of law, an agency
39 designated in subdivision (b) shall require an applicant to furnish
40 to the agency a full set of fingerprints for purposes of conducting

1 criminal history record checks. Any agency designated in
2 subdivision (b) may obtain and receive, at its discretion, criminal
3 history information from the Department of Justice and the United
4 States Federal Bureau of Investigation.

5 (b) Subdivision (a) applies to the following:

- 6 (1) California Board of Accountancy.
- 7 (2) State Athletic Commission.
- 8 (3) Board of Behavioral Sciences.
- 9 (4) Court Reporters Board of California.
- 10 (5) State Board of Guide Dogs for the Blind.
- 11 (6) California State Board of Pharmacy.
- 12 (7) Board of Registered Nursing.
- 13 (8) Veterinary Medical Board.
- 14 (9) Registered Veterinary Technician Committee.
- 15 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 16 (11) Respiratory Care Board of California.
- 17 (12) Hearing Aid Dispensers Advisory Commission.
- 18 (13) Physical Therapy Board of California.
- 19 (14) Physician Assistant Committee of the Medical Board of
20 California.
- 21 (15) Speech-Language Pathology and Audiology Board.
- 22 (16) Medical Board of California.
- 23 (17) State Board of Optometry.
- 24 (18) ~~Acupuncture~~ *Traditional Chinese Medicine* Board.
- 25 (19) Cemetery and Funeral Bureau.
- 26 (20) Bureau of Security and Investigative Services.
- 27 (21) Division of Investigation.
- 28 (22) Board of Psychology.
- 29 (23) The California Board of Occupational Therapy.
- 30 (24) Structural Pest Control Board.
- 31 (25) Contractors' State License Board.
- 32 (26) Bureau of Naturopathic Medicine.
- 33 (27) The Professional Fiduciaries Bureau.

34 (c) The provisions of paragraph (24) of subdivision (b) shall
35 become operative on July 1, 2004. The provisions of paragraph
36 (25) of subdivision (b) shall become operative on the date on which
37 sufficient funds are available for the Contractors' State License
38 Board and the Department of Justice to conduct a criminal history
39 record check pursuant to this section or on July 1, 2005, whichever
40 occurs first.

SEC. 6. *Section 149 of the Business and Professions Code is amended to read:*

149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

- (1) Cease the unlawful advertising.
- (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Cemetery and Funeral Bureau.
- (3) The Veterinary Medical Board.
- (4) The Landscape Architects Technical Committee.
- (5) The California Board of Podiatric Medicine.
- (6) The Respiratory Care Board of California.
- (7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (8) The Bureau of Security and Investigative Services.

- 1 (9) The Bureau of Automotive Repair.
- 2 (10) The California Architects Board.
- 3 (11) The Speech-Language Pathology and Audiology Board.
- 4 (12) The Board for Professional Engineers and Land Surveyors.
- 5 (13) The Board of Behavioral Sciences.
- 6 (14) The Structural Pest Control Board within the Department
- 7 of Pesticide Regulation.
- 8 (15) ~~The Acupuncture~~ *Traditional Chinese Medicine* Board.
- 9 (16) The Board of Psychology.
- 10 (17) The California Board of Accountancy.
- 11 (18) The Naturopathic Medicine Committee.
- 12 (19) The Physical Therapy Board of California.
- 13 (20) The Bureau for Private Postsecondary Education.
- 14 *SEC. 7. Section 205 of the Business and Professions Code is*
- 15 *amended to read:*
- 16 205. (a) There is in the State Treasury the Professions and
- 17 Vocations Fund. The fund shall consist of the following special
- 18 funds:
- 19 (1) Accountancy Fund.
- 20 (2) California Architects Board Fund.
- 21 (3) Athletic Commission Fund.
- 22 (4) Barbering and Cosmetology Contingent Fund.
- 23 (5) Cemetery Fund.
- 24 (6) Contractors' License Fund.
- 25 (7) State Dentistry Fund.
- 26 (8) State Funeral Directors and Embalmers Fund.
- 27 (9) Guide Dogs for the Blind Fund.
- 28 (10) Home Furnishings and Thermal Insulation Fund.
- 29 (11) California Architects Board-Landscape Architects Fund.
- 30 (12) Contingent Fund of the Medical Board of California.
- 31 (13) Optometry Fund.
- 32 (14) Pharmacy Board Contingent Fund.
- 33 (15) Physical Therapy Fund.
- 34 (16) Private Investigator Fund.
- 35 (17) Professional Engineers' and Land Surveyors' Fund.
- 36 (18) Consumer Affairs Fund.
- 37 (19) Behavioral Sciences Fund.
- 38 (20) Licensed Midwifery Fund.
- 39 (21) Court Reporters' Fund.
- 40 (22) Veterinary Medical Board Contingent Fund.

(23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.

(24) Electronic and Appliance Repair Fund.

(25) Geology and Geophysics Fund.

(26) Dispensing Opticians Fund.

(27) ~~Acupuncture~~ Traditional Chinese Medicine Fund.

(28) Physician Assistant Fund.

(29) Board of Podiatric Medicine Fund.

(30) Psychology Fund.

(31) Respiratory Care Fund.

(32) Speech-Language Pathology and Audiology Fund.

(33) Board of Registered Nursing Fund.

(34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.

(35) Animal Health Technician Examining Committee Fund.

(36) State Dental Hygiene Fund.

(37) State Dental Assistant Fund.

(38) Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 8. Section 730.5 of the Business and Professions Code is amended to read:

730.5. (a) It is unprofessional conduct and a crime, as provided in Section 4935, for a physician and surgeon, osteopathic physician, dentist, or podiatrist to direct or supervise the performance of acupuncture involving the application of a needle to the body of a human being by a person licensed under this division who is not licensed pursuant to the ~~Acupuncture~~ Traditional Chinese Medicine Licensure Act established by Chapter 12 (commencing with Section 4925).

(b) It is unprofessional conduct and a crime, as provided in Section 4935, for a person licensed under this division who is not licensed pursuant to the ~~Acupuncture~~ Traditional Chinese Medicine Licensure Act established by Chapter 12 (commencing with Section

1 4925) to perform acupuncture involving the application of a needle
2 to the body of a human being at the direction or under the
3 supervision of a physician and surgeon, osteopathic physician,
4 dentist, or podiatrist.

5 *SEC. 9. Section 800 of the Business and Professions Code is*
6 *amended to read:*

7 800. (a) The Medical Board of California, the Board of
8 Psychology, the Dental Board of California, the Osteopathic
9 Medical Board of California, the State Board of Chiropractic
10 Examiners, the Board of Registered Nursing, the Board of
11 Vocational Nursing and Psychiatric Technicians, the State Board
12 of Optometry, the Veterinary Medical Board, the Board of
13 Behavioral Sciences, the Physical Therapy Board of California,
14 the California State Board of Pharmacy, the Speech-Language
15 Pathology and Audiology and Hearing Aid Dispensers Board, the
16 California Board of Occupational Therapy, and the ~~Acupuncture~~
17 *Traditional Chinese Medicine* Board shall each separately create
18 and maintain a central file of the names of all persons who hold a
19 license, certificate, or similar authority from that board. Each
20 central file shall be created and maintained to provide an individual
21 historical record for each licensee with respect to the following
22 information:

23 (1) Any conviction of a crime in this or any other state that
24 constitutes unprofessional conduct pursuant to the reporting
25 requirements of Section 803.

26 (2) Any judgment or settlement requiring the licensee or his or
27 her insurer to pay any amount of damages in excess of three
28 thousand dollars (\$3,000) for any claim that injury or death was
29 proximately caused by the licensee's negligence, error or omission
30 in practice, or by rendering unauthorized professional services,
31 pursuant to the reporting requirements of Section 801 or 802.

32 (3) Any public complaints for which provision is made pursuant
33 to subdivision (b).

34 (4) Disciplinary information reported pursuant to Section 805,
35 including any additional exculpatory or explanatory statements
36 submitted by the licensee pursuant to subdivision (f) of Section
37 805. If a court finds, in a final judgment, that the peer review
38 resulting in the 805 report was conducted in bad faith and the
39 licensee who is the subject of the report notifies the board of that
40 finding, the board shall include that finding in the central file. For

1 purposes of this paragraph, “peer review” has the same meaning
2 as defined in Section 805.

3 (5) Information reported pursuant to Section 805.01, including
4 any explanatory or exculpatory information submitted by the
5 licensee pursuant to subdivision (b) of that section.

6 (b) Each board shall prescribe and promulgate forms on which
7 members of the public and other licensees or certificate holders
8 may file written complaints to the board alleging any act of
9 misconduct in, or connected with, the performance of professional
10 services by the licensee.

11 If a board, or division thereof, a committee, or a panel has failed
12 to act upon a complaint or report within five years, or has found
13 that the complaint or report is without merit, the central file shall
14 be purged of information relating to the complaint or report.

15 Notwithstanding this subdivision, the Board of Psychology, the
16 Board of Behavioral Sciences, and the Respiratory Care Board of
17 California shall maintain complaints or reports as long as each
18 board deems necessary.

19 (c) The contents of any central file that are not public records
20 under any other provision of law shall be confidential except that
21 the licensee involved, or his or her counsel or representative, shall
22 have the right to inspect and have copies made of his or her
23 complete file except for the provision that may disclose the identity
24 of an information source. For the purposes of this section, a board
25 may protect an information source by providing a copy of the
26 material with only those deletions necessary to protect the identity
27 of the source or by providing a comprehensive summary of the
28 substance of the material. Whichever method is used, the board
29 shall ensure that full disclosure is made to the subject of any
30 personal information that could reasonably in any way reflect or
31 convey anything detrimental, disparaging, or threatening to a
32 licensee’s reputation, rights, benefits, privileges, or qualifications,
33 or be used by a board to make a determination that would affect
34 a licensee’s rights, benefits, privileges, or qualifications. The
35 information required to be disclosed pursuant to Section 803.1
36 shall not be considered among the contents of a central file for the
37 purposes of this subdivision.

38 The licensee may, but is not required to, submit any additional
39 exculpatory or explanatory statement or other information that the
40 board shall include in the central file.

1 Each board may permit any law enforcement or regulatory
2 agency when required for an investigation of unlawful activity or
3 for licensing, certification, or regulatory purposes to inspect and
4 have copies made of that licensee's file, unless the disclosure is
5 otherwise prohibited by law.

6 These disclosures shall effect no change in the confidential status
7 of these records.

8 ~~SECTION 1.~~

9 *SEC. 10.* Section 4925 of the Business and Professions Code
10 is amended to read:

11 4925. (a) This chapter constitutes the chapter on acupuncture
12 of the Business and Professions Code.

13 This chapter shall be known and may be cited as the ~~Acupuncture~~
14 *Traditional Chinese Medicine Licensure Act*. Whenever a reference
15 is made to the *Traditional Chinese Medicine Licensure Act* or the
16 Acupuncture Licensure Act by the provisions of any statute, it is
17 to be construed as referring to the provisions of this chapter.

18 (b) Any reference in this chapter, or to the regulations pertaining
19 thereto, to "certificate" or "certification" shall hereafter mean
20 "license" or "licensure." Any reference to the term "certifying"
21 means "licensing," and the term "certificate holder" means
22 "licensee." Any reference to "licensee" in Article 4 (commencing
23 with Section 4955) shall also mean a traumatologist who holds a
24 certificate pursuant to Article 3 (commencing with Section 4950).
25 Any reference to the "Acupuncture Committee" or "committee"
26 means the ~~"Acupuncture"~~ *"Traditional Chinese Medicine Board"*
27 or "board."

28 (c) The title "acupuncturist," as applied to an individual to whom
29 a license has been issued to practice acupuncture pursuant to this
30 chapter that is in effect and is not suspended or revoked, is renamed
31 ~~Doctor of Traditional Chinese Medicine~~ *Traditional Chinese*
32 *Medicine Practitioner*. Any reference by the provisions of this
33 chapter, this code or other codes, or in any statute or regulation to
34 an acupuncturist shall be deemed a reference to a ~~Doctor of~~
35 ~~Traditional Chinese Medicine~~ *Traditional Chinese Medicine*
36 *Practitioner*.

37 ~~SEC. 2.~~

38 *SEC. 11.* Section 4927 of the Business and Professions Code
39 is amended to read:

1 4927. As used in this chapter, unless the context otherwise
2 requires:

3 (a) “Board” means the ~~Acupuncture~~ *Traditional Chinese*
4 *Medicine* Board.

5 (b) “Person” means any individual, organization, or corporate
6 body, except that only individuals may be licensed under this
7 chapter.

8 (c) “Acupuncturist” means an individual to whom a license has
9 been issued to practice acupuncture pursuant to this chapter, which
10 is in effect and is not suspended or revoked. Any reference to
11 ~~acupuncturist~~ “*acupuncturist*” in this chapter, this code or other
12 codes, or in any statute or regulation shall be deemed to mean a
13 ~~Doctor of Traditional Chinese Medicine~~ *Traditional Chinese*
14 *Medicine Practitioner*.

15 (d) “Acupuncture” or “*the practice of Traditional Chinese*
16 *Medicine*” means the stimulation of a certain point or points on
17 or near the surface of the body by the insertion of needles to prevent
18 or modify the perception of pain or to normalize physiological
19 functions, including pain control, for the treatment of certain
20 diseases or dysfunctions of the body and includes the techniques
21 of electroacupuncture, cupping, and moxibustion.

22 *SEC. 12. Section 4928 of the Business and Professions Code*
23 *is amended to read:*

24 4928. The ~~Acupuncture Board~~ *board*, which consists of seven
25 members, shall enforce and administer this chapter.

26 This section shall remain in effect only until January 1, 2013,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2013, deletes or extends that date.

29 The repeal of this section renders the board subject to the review
30 required by ~~Division 1.2 (commencing with Section 473)~~ *Article*
31 *7.5 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of*
32 *Division 2 of the Government Code.*

33 *SEC. 13. Section 4928.1 of the Business and Professions Code*
34 *is amended to read:*

35 4928.1. Protection of the public shall be the highest priority
36 for the ~~Acupuncture Board~~ *board* in exercising its licensing,
37 regulatory, and disciplinary functions. Whenever the protection
38 of the public is inconsistent with other interests sought to be
39 promoted, the protection of the public shall be paramount.

1 *SEC. 14. Section 4935 of the Business and Professions Code*
2 *is amended to read:*

3 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
4 less than one hundred dollars (\$100) and not more than two
5 thousand five hundred dollars (\$2,500), or by imprisonment in a
6 county jail not exceeding one year, or by both that fine and
7 imprisonment, for any person who does not hold a current and
8 valid license to practice acupuncture under this chapter or to hold
9 himself or herself out as practicing or engaging in the practice of
10 acupuncture, *or to engage in the practice of traumatology without*
11 *a current or valid certificate as a traumatologist or a current or*
12 *valid license as an acupuncturist or to hold himself or herself out*
13 *as practicing or engaging in the practice of traumatology without*
14 *a certificate or license under this chapter.*

15 (2) It is a misdemeanor, punishable by a fine of not less than
16 one hundred dollars (\$100) and not more than two thousand five
17 hundred dollars (\$2,500), or by imprisonment in a county jail not
18 exceeding one year, or by both that fine and imprisonment, for
19 any person to fraudulently buy, sell, or obtain a license to practice
20 acupuncture *or a certificate to practice traumatology*, or to violate
21 the provisions of this chapter.

22 (b) Notwithstanding any other provision of law, any person,
23 other than a physician and surgeon, a dentist, or a podiatrist, who
24 is not licensed under this article but is licensed under Division 2
25 (commencing with Section 500), who practices acupuncture *or*
26 *traumatology* involving the application of a needle to the human
27 body, performs any acupuncture *or traumatology* technique or
28 method involving the application of a needle to the human body,
29 or directs, manages, or supervises another person in performing
30 acupuncture *or traumatology* involving the application of a needle
31 to the human body is guilty of a misdemeanor.

32 (c) A person holds himself or herself out as engaging in the
33 practice of acupuncture by the use of any title or description of
34 services incorporating the words “acupuncture,” “acupuncturist,”
35 “certified acupuncturist,” “licensed acupuncturist,” “Asian
36 medicine,” “oriental medicine,” “*Traditional Chinese Medicine*,”
37 or any combination of those words, phrases, or abbreviations of
38 those words or phrases, ~~or~~ by representing that he or she is trained,
39 experienced, or an expert in the field of acupuncture, Asian

1 medicine, or Chinese medicine, *or by representing that he or she*
2 *is trained, experienced, or an expert in the field of traumatology.*

3 (d) Subdivision (a) shall not prohibit a person from
4 administering acupuncture treatment as part of his or her
5 educational training if he or she:

6 (1) Is engaged in a course or tutorial program in acupuncture,
7 as provided in this chapter; or

8 (2) Is a graduate of a school of acupuncture approved by the
9 board and participating in a postgraduate review course that does
10 not exceed one year in duration at a school approved by the board.

11 ~~SEC. 3.~~

12 *SEC. 15.* Section 4937 of the Business and Professions Code
13 is amended to read:

14 4937. (a) An acupuncturist's license authorizes the holder
15 thereof:

16 ~~(a)~~

17 (1) To engage in the practice of acupuncture.

18 ~~(b)~~

19 (2) To perform or prescribe the use of Asian massage,
20 acupressure, breathing techniques, exercise, heat, cold, magnets,
21 nutrition, diet, herbs, plant, animal, and mineral products, and
22 dietary supplements to promote, maintain, and restore health.
23 Nothing in this section prohibits any person who does not possess
24 an acupuncturist's license or another license as a healing arts
25 practitioner from performing, or prescribing the use of any modality
26 listed in this subdivision.

27 ~~(c)~~

28 (3) To practice traumatology. Traumatology includes a range
29 of treatments to address both acute and chronic musculoskeletal
30 conditions, as well as many nonmusculoskeletal conditions.
31 Techniques include, but are not limited to, brushing, kneading,
32 rolling, pressing, and rubbing the areas between each of the joints
33 to open the body's defensive chi and stimulate the energy
34 movement in both meridians and the muscles so that the licensee
35 is able to use range of motion, traction, and massage with the
36 stimulation of acupuncture points.

37 ~~(d)~~

38 (b) For purposes of this section, a "magnet" means a mineral
39 or metal that produces a magnetic field without the application of
40 an electric current.

1 ~~(e)~~

2 (c) For purposes of this section, “plant, animal, and mineral
3 products” means naturally occurring substances of plant, animal,
4 or mineral origin, except that it does not include synthetic
5 compounds, controlled substances or dangerous drugs as defined
6 in Sections 4021 and 4022, or a controlled substance listed in
7 Chapter 2 (commencing with Section 11053) of Division 10 of the
8 Health and Safety Code.

9 ~~(f)~~

10 (d) For purposes of this section, “dietary supplement” has the
11 same meaning as defined in subsection (ff) of Section 321 of Title
12 21 of the United States Code, except that dietary supplement does
13 not include controlled substances or dangerous drugs as defined
14 in Section 4021 or 4022, or a controlled substance listed in Chapter
15 2 (commencing with Section 11053) of Division 10 of the Health
16 and Safety Code.

17 *SEC. 16. Article 3 (commencing with Section 4950) is added*
18 *to Chapter 12 of Division 2 of the Business and Professions Code,*
19 *to read:*

20
21 *Article 3. Traumatologists*
22

23 4950. (a) *On or before February 1, 2012, the board shall*
24 *establish a traumatology subcommittee within the board.*

25 (b) *The traumatology subcommittee shall consist of six members*
26 *composed of representatives from the clinical and academic*
27 *settings of traumatology.*

28 (c) *The traumatology subcommittee shall, on or before March*
29 *1, 2012, review the scope of practice of traumatology and shall*
30 *create a certification process for the certification of individuals*
31 *as traumatologists, on and after March 1, 2012, who meet a*
32 *minimum level of training and expertise.*

33 (d) (1) *The standards and criteria the subcommittee shall utilize*
34 *in determining whether an individual may be issued a certificate*
35 *pursuant to subdivision (c) shall be based upon training and*
36 *expertise in traumatology that includes, but is not limited to, the*
37 *following:*

38 (A) *Knowledge of the practice and theories of traumatology.*

39 (B) *Experience in practicing traumatology.*

1 (C) *Clinical or practical experience in treating fractures,*
2 *dislocations, injuries of muscles and tendons, and internal*
3 *traumatic syndrome.*

4 (D) *Treatment of qi injuries.*

5 (E) *Treatment through the use of therapeutic principles of*
6 *motion and quiescence.*

7 (F) *Treatment in orthopedics through the use of traumatology.*

8 (G) *Treatment through manipulation or fixation and functional*
9 *exercise.*

10 (H) *Competent use of topically applied medicines in orthopedics*
11 *and traumatology.*

12 (I) *Basic manipulations in tendon-smoothing, such as deep*
13 *massage, kneading manipulation, scrubbing manipulation, rolling*
14 *manipulation, striking manipulation, or grasping and pinching*
15 *manipulation.*

16 (2) *The subcommittee shall also take into consideration whether*
17 *the applicant was trained through an apprenticeship program and*
18 *how long the individual has practiced traumatology.*

19 (e) *On and after March 1, 2012, the traumatology subcommittee*
20 *shall issue a certificate to practice traumatology only to a person*
21 *who satisfies the standards set forth in subdivisions (c) and (d)*
22 *and who was engaged in the practice of traumatology on or before*
23 *January 1, 2012.*

24 (f) *An applicant for certification as a traumatologist under this*
25 *section shall apply for certification on a form to be developed by*
26 *the board, and shall pay an application fee in the amount of*
27 *seventy-five dollars (\$75) when submitting his or her application*
28 *to the subcommittee.*

29 (g) *Moneys received under this section shall be deposited into*
30 *the Traditional Chinese Medicine Fund for purposes of this*
31 *chapter.*

32 (h) *An applicant engaged in the practice of traumatology on or*
33 *before January 1, 2012, shall have until March 1, 2013, to file an*
34 *application for a certificate to lawfully practice traumatology in*
35 *this state. On and after March 1, 2013, the subcommittee shall not*
36 *issue an initial license to any applicant. On and after March 1,*
37 *2013, the subcommittee may issue only a renewal of a certificate*
38 *under this section or as specified. An individual who is not qualified*
39 *to receive a certificate under this section, or who fails to apply for*
40 *certification under this section by March 1, 2013, shall be required*

1 to be licensed as an acupuncturist in order to practice
2 traumatology.

3 (i) (1) Pursuant to Section 4965, the renewal of an unexpired
4 certificate issued under this section shall be required every five
5 years and the same application requirements and applicant fee
6 described under subdivision (f), and the same criteria and
7 standards specified in subdivisions (c) and (d), shall apply to
8 renewal of an unexpired certificate.

9 (2) Renewal of an expired certificate shall be governed by the
10 procedures specified in Sections 4966, 4967, and 4969.

11 (j) An applicant who is denied a certificate under this section
12 may appeal that denial to the board pursuant to the same
13 procedures that apply to an applicant for licensure as an
14 acupuncturist.

15 (k) A licensee under this section shall be subject to the
16 disciplinary provisions set forth in Article 4 (commencing with
17 Section 4955), subject to enforcement by the board.

18 (l) For purposes of this section, “traumatology” has the same
19 meaning as used in Section 4937.

20 (m) The practice of traumatology without a certificate issued
21 pursuant to this section or a license to practice acupuncture is the
22 unlawful practice of acupuncture as set forth in Section 4935.

23 (n) The subcommittee from time to time, and no less than every
24 five years, shall review and update or modify the standards that
25 apply for renewal of a certificate with regard to the standards set
26 forth in subdivisions (c) and (d).

27 SEC. 17. Section 4955 of the Business and Professions Code
28 is amended to read:

29 4955. The board may deny, suspend, or revoke, or impose
30 probationary conditions upon, the license of any acupuncturist or
31 traumatologist if he or she is guilty of unprofessional conduct.

32 Unprofessional conduct shall include, but not be limited to, the
33 following:

34 (a) Using or possessing any controlled substance as defined in
35 Division 10 (commencing with Section 11000) of the Health and
36 Safety Code, or dangerous drug or alcoholic beverage to an extent
37 or in a manner dangerous to himself or herself, or to any other
38 person, or to the public, and to an extent that the use impairs his
39 or her ability to engage in the practice of acupuncture or
40 traumatology with safety to the public.

1 (b) Conviction of a crime substantially related to the
2 qualifications, functions, or duties of an acupuncturist *or*
3 *traumatologist*, the record of conviction being conclusive evidence
4 thereof.

5 (c) False or misleading advertising.

6 (d) Aiding or abetting in, or violating or conspiring in, directly
7 or indirectly, the violation of the terms of this chapter or any
8 regulation adopted by the board pursuant to this chapter.

9 (e) Except for good cause, the knowing failure to protect patients
10 by failing to follow infection control guidelines of the board,
11 thereby risking transmission of blood-borne infectious diseases
12 from licensee to patient, from patient to patient, and from patient
13 to licensee. In administering this subdivision, the board shall
14 consider referencing the standards, regulations, and guidelines of
15 the State Department of Health Services developed pursuant to
16 Section 1250.11 of the Health and Safety Code and the standards,
17 regulations, and guidelines pursuant to the California Occupational
18 Safety and Health Act of 1973 (Part 1 (commencing with Section
19 6300) of Division 5 of the Labor Code) for preventing the
20 transmission of HIV, hepatitis B, and other blood-borne pathogens
21 in health care settings. As necessary, the board shall consult with
22 the Medical Board of California, the California Board of Podiatric
23 Medicine, the Dental Board of California, the Board of Registered
24 Nursing, and the Board of Vocational Nursing and Psychiatric
25 Technicians, to encourage appropriate consistency in the
26 implementation of this subdivision.

27 The board shall seek to ensure that licensees are informed of the
28 responsibility of licensees and others to follow infection control
29 guidelines, and of the most recent scientifically recognized
30 safeguards for minimizing the risk of transmission of blood-borne
31 infectious diseases.

32 (f) The use of threats or harassment against any patient or
33 licensee for providing evidence in a disciplinary action, other legal
34 action, or in an investigation contemplating a disciplinary action
35 or other legal action.

36 (g) Discharging an employee primarily for attempting to comply
37 with the terms of this chapter.

38 (h) Disciplinary action taken by any public agency for any act
39 substantially related to the qualifications, functions, or duties of

1 an acupuncturist, *traumatologist*, or any professional health care
2 licensee.

3 (i) Any action or conduct that would have warranted the denial
4 of the acupuncture license *or the traumatology certificate*.

5 (j) The violation of any law or local ordinance on an
6 acupuncturist's *or traumatologist's* business premises by an
7 acupuncturist's *or traumatologist's* employee or a person who is
8 working under the acupuncturist's *or traumatologist's* professional
9 license or business permit, that is substantially related to the
10 qualifications, functions, or duties of an acupuncturist *or*
11 *traumatologist*. These violations shall subject the acupuncturist *or*
12 *traumatologist* who employed the individuals, or under whose
13 ~~acupuncturist~~ acupuncture license *or traumatology certificate* the
14 employee is working, to disciplinary action.

15 (k) The abandonment of a patient by the ~~licentiate~~ licensee
16 without written notice to the patient that treatment is to be
17 discontinued and before the patient has had a reasonable
18 opportunity to secure the services of another practitioner.

19 (l) The failure to notify the board of the use of any false,
20 assumed, or fictitious name other than the name under which he
21 or she is licensed as an individual to practice acupuncture *or*
22 *traumatology*.

23 SEC. 18. Section 4955.1 of the Business and Professions Code
24 is amended to read:

25 4955.1. The board may deny, suspend, revoke, or impose
26 probationary conditions upon the license of any acupuncturist *or*
27 *traumatologist* if he or she is guilty of committing a fraudulent
28 act, including, but not ~~be~~ limited to, any of the following:

29 (a) Securing a license by fraud or deceit.

30 (b) Committing a fraudulent or dishonest act as an acupuncturist
31 *or traumatologist*.

32 (c) Committing any act involving dishonesty or corruption with
33 respect to the qualifications, functions, or duties of an acupuncturist
34 *or traumatologist*.

35 (d) Altering or modifying the medical record of any person,
36 with fraudulent intent, or creating any false medical record.

37 (e) Failing to maintain adequate and accurate records relating
38 to the provision of services to ~~their~~ his or her patients.

39 SEC. 19. Section 4955.2 of the Business and Professions Code
40 is amended to read:

1 4955.2. The board may deny, suspend, revoke, or impose
2 probationary conditions upon the license of any acupuncturist *or*
3 *traumatologist* if he or she is guilty of committing any one of the
4 following:

- 5 (a) Gross negligence.
- 6 (b) Repeated negligent acts.
- 7 (c) Incompetence.

8 *SEC. 20. Section 4956 of the Business and Professions Code*
9 *is amended to read:*

10 4956. A plea or verdict of guilty or a conviction following a
11 plea of nolo contendere made to a charge ~~which~~ *that* is substantially
12 related to the qualifications, functions, or duties of an acupuncturist
13 *or traumatologist* is deemed to be a conviction within the meaning
14 of this chapter.

15 The board may order a license suspended or revoked, or may
16 deny a license, or may impose probationary conditions upon a
17 license, when the time for appeal has elapsed, or the judgment of
18 conviction has been affirmed on appeal, or when an order granting
19 probation is made suspending the imposition of sentence
20 irrespective of a subsequent order under ~~the provisions of~~ Section
21 1203.4 of the Penal Code allowing the person to withdraw his or
22 her pleas of guilty and to enter a plea of not guilty, or setting aside
23 the verdict of guilty, or dismissing the accusation, complaint,
24 information, or indictment.

25 *SEC. 21. Section 4959 of the Business and Professions Code*
26 *is amended to read:*

27 4959. (a) The board may request the administrative law judge,
28 under his or her proposed decision in resolution of a disciplinary
29 proceeding before the board, to direct any licensee found guilty
30 of unprofessional conduct to pay to the board a sum not to exceed
31 actual and reasonable costs of the investigation and prosecution
32 of the case.

33 (b) The costs to be assessed shall be fixed by the administrative
34 law judge and shall not in any event be increased by the board.
35 When the board does not adopt a proposed decision and remands
36 the case to an administrative law judge, the administrative law
37 judge shall not increase the amount of any costs assessed in the
38 proposed decision.

39 (c) When the payment directed in the board's order for payment
40 of costs is not made by the licensee, the board may enforce the

1 order for payment in the superior court in the county where the
2 administrative hearing was held. This right of enforcement shall
3 be in addition to any other rights the board may have as to any
4 licensee directed to pay costs.

5 (d) In any judicial action for the recovery of costs, proof of the
6 board's decision shall be conclusive proof of the validity of the
7 order of payment and the terms for payment.

8 (e) All costs recovered under this section shall be considered a
9 reimbursement for costs incurred and shall be deposited in the
10 ~~Acupuncture~~ *Traditional Chinese Medicine* Fund.

11 *SEC. 22. Section 4960.2 of the Business and Professions Code*
12 *is amended to read:*

13 4960.2. The board in all cases of revocation shall certify the
14 fact of the revocation, under the seal of the board, to the business
15 licensing entity of the cities or counties in which the license of the
16 acupuncturist *or traumatologist* has been revoked. The record of
17 the revocation made by the county or city clerk shall be sufficient
18 evidence of the revocation, and of the regularity of all proceedings
19 of the board in the matter of the revocation.

20 *SEC. 23. Section 4961 of the Business and Professions Code*
21 *is amended to read:*

22 4961. (a) Every person who is now or hereafter licensed to
23 practice acupuncture *or traumatology* in this state shall register,
24 on forms prescribed by the ~~Acupuncture Board~~ *board*, his or her
25 place of practice, or, if he or she has more than one place of
26 practice, all of the places of practice. If the licensee has no place
27 of practice, he or she shall notify the board of that fact. A person
28 licensed by the board shall register within 30 days after the date
29 of his or her licensure.

30 (b) ~~An acupuncturist~~ A licensee shall post his or her license in
31 a conspicuous location in his or her place of practice at all times.
32 If an acupuncturist *or traumatologist* has more than one place of
33 practice, he or she shall obtain from the board a duplicate license
34 for each additional location and post the duplicate license at each
35 location.

36 (c) Any licensee that changes the location of his or her place of
37 practice shall register each change within 30 days of making that
38 change. In the event a licensee fails to notify the board of any
39 change in the address of a place of practice within the time
40 prescribed by this section, the board may deny renewal of licensure.

1 An applicant for renewal of licensure shall specify in his or her
2 application whether or not there has been a change in the location
3 of his or her place of practice and, if so, the date of that change.
4 The board may accept that statement as evidence of the change of
5 address.

6 *SEC. 24. Section 4964.5 is added to the Business and*
7 *Professions Code, to read:*

8 *4964.5. The provisions of this article apply to both acupuncture*
9 *and traumatology licensees.*

10 *SEC. 25. Section 4965 of the Business and Professions Code*
11 *is amended to read:*

12 *4965. (a) Licenses (1) A license to practice acupuncture issued*
13 *pursuant to this chapter shall expire on the last day of the birth*
14 *month of the licensee during the second year of a two-year term,*
15 *if not renewed.*

16 ~~(b)~~

17 *(2) The board shall establish and administer a birth date renewal*
18 *program for purposes of this subdivision.*

19 ~~(c)~~

20 *(3) To renew an unexpired license, the holder shall apply for*
21 *renewal on a form provided by the board and pay the renewal fee*
22 *fixed by the board.*

23 *(b) A certificate to practice traumatology issued pursuant to*
24 *this chapter shall expire five years after the date of issuance, if*
25 *not renewed. To renew an unexpired certificate, the holder shall*
26 *apply for renewal on a form provided by the board and pay the*
27 *renewal fee set forth in Section 4950.*

28 *SEC. 26. Section 4966 of the Business and Professions Code*
29 *is amended to read:*

30 *4966. Except*

31 *(a) Except as provided in Section 4969, a license to practice*
32 *acupuncture that has expired may be renewed at any time within*
33 *three years after its expiration by filing of an application for*
34 *renewal on a form provided by the board, paying all accrued and*
35 *unpaid renewal fees, and providing proof of completing continuing*
36 *education requirements. If the license is not renewed prior to its*
37 *expiration, the acupuncturist, as a condition precedent to renewal,*
38 *shall also pay the prescribed delinquency fee. Renewal*

39 *(b) Except as provided in Section 4969, a certificate to practice*
40 *traumatology that has expired may be renewed at any time within*

1 *three years after its expiration by filing an application for renewal*
2 *on a form provided by the board, and paying all accrued and*
3 *unpaid renewal fees. If the certificate is not renewed prior to its*
4 *expiration, the traumatologist, as a condition precedent to renewal,*
5 *shall also pay a delinquency fee, to be set in accordance with*
6 *Section 163.5.*

7 (c) *Renewal* under this section shall be effective on the date on
8 which the application is filed, on the date on which the renewal
9 fee is paid, or on the date the delinquency fee is paid, whichever
10 occurs last. If so renewed, the license *or certificate* shall continue
11 in effect through the expiration date provided in Section 4965,
12 after the effective date of the renewal, when it shall expire and
13 become invalid if it is not again renewed.

14 *SEC. 27. Section 4967 of the Business and Professions Code*
15 *is amended to read:*

16 4967. A person who fails to renew his or her license *or*
17 *certificate* within three years after its expiration may not renew it,
18 and it may not be restored, reissued, or reinstated thereafter, but
19 that person may apply for and obtain a new license *or certificate*
20 if he or she meets all of the following requirements:

21 (a) Has not committed any acts or crimes constituting grounds
22 for denial of licensure *or certification* under Division 1.5
23 (commencing with Section 475).

24 (b) ~~Takes~~ *If an acupuncturist, takes* and passes the examination,
25 if any, which would be required of him or her if an initial
26 application for licensure was being made, or, *if an acupuncturist*
27 *or traumatologist*, otherwise establishes to the satisfaction of the
28 board that, with due regard for the public interest, he or she is
29 qualified to practice as an acupuncturist *or traumatologist*.

30 (c) Pays all of the fees that would be required if an initial
31 application for licensure *or certification* was being made. ~~The~~

32 (d) *The board may provide for the waiver or refund of all or any*
33 *part of an examination fee in those cases in which a license to*
34 *practice acupuncture* is issued without an examination pursuant
35 to this section.

36 *SEC. 28. Section 4969 of the Business and Professions Code*
37 *is amended to read:*

38 4969. (a) A suspended license *or certificate* is subject to
39 expiration and shall be renewed as provided in this article, but the
40 renewal does not entitle the acupuncturist *or traumatologist*, while

1 the license *or certificate* remains suspended, and until it is
2 reinstated, to engage in the practice of acupuncture *or*
3 *traumatology*, or in any other activity or conduct in violation of
4 the order or judgment by which the license *or certificate* was
5 suspended.

6 (b) A revoked license *or certificate* is subject to expiration as
7 provided in this article, but it may not be renewed. If it is reinstated
8 after its expiration, the former licensee *or certificate holder*, as a
9 condition to reinstatement, shall pay a reinstatement fee in an
10 amount equal to the renewal fee in effect on the last regular renewal
11 date before the date on which the license *or certificate* was
12 reinstated, plus the delinquency fee, if any, accrued at the time of
13 its expiration.

14 *SEC. 29. Section 4970 of the Business and Professions Code*
15 *is amended to read:*

16 4970. The amount of fees prescribed for licensed acupuncturists
17 shall be those set forth in this section unless a lower fee is fixed
18 by the board in accordance with Section 4972:

19 (a) The application fee shall be seventy-five dollars (\$75).

20 (b) The examination and reexamination fees shall be the actual
21 cost to the ~~Acupuncture Board~~ *board* for the development and
22 writing of, grading, and administering of each examination.

23 (c) The initial license fee shall be three hundred twenty-five
24 dollars (\$325), except that if the license will expire less than one
25 year after its issuance, then the initial license fee shall be an amount
26 equal to 50 percent of the initial license fee.

27 (d) The renewal fee shall be three hundred twenty-five dollars
28 (\$325) and in the event a lower fee is fixed by the board, shall be
29 an amount sufficient to support the functions of the board in the
30 administration of this chapter. The renewal fee shall be assessed
31 on an annual basis until January 1, 1996, and on and after that date
32 the board shall assess the renewal fee biennially.

33 (e) The delinquency fee shall be set in accordance with Section
34 163.5.

35 (f) The application fee for the approval of a school or college
36 under Section 4939 shall be three thousand dollars (\$3,000).

37 (g) The duplicate wall license fee is an amount equal to the cost
38 to the board for the issuance of the duplicate license.

39 (h) The duplicate renewal receipt fee is ten dollars (\$10).

40 (i) The endorsement fee is ten dollars (\$10).

1 (j) The fee for a duplicate license for an additional office
2 location as required under Section 4961 shall be fifteen dollars
3 (\$15).

4 *SEC. 30. Section 4974 of the Business and Professions Code*
5 *is amended to read:*

6 4974. The board shall report to the Controller at the beginning
7 of each month for the month preceding the amount and source of
8 all revenue received by it pursuant to this chapter, and shall pay
9 the entire amount thereof to the Treasurer for deposit in the
10 ~~Acupuncture~~ *Traditional Chinese Medicine* Fund, which fund is
11 created to carry out the provisions of this chapter.

12 *SEC. 31. Section 4975 of the Business and Professions Code*
13 *is amended to read:*

14 4975. An acupuncture corporation is a corporation ~~which~~ *that*
15 is authorized to render professional services, as defined in Section
16 13401 of the Corporations Code, so long as that corporation and
17 its shareholders, officers, directors, and employees rendering
18 professional services who are acupuncturists are in compliance
19 with the Moscone-Knox Professional Corporation Act, this article
20 and all other statutes and regulations now or hereafter enacted or
21 adopted pertaining to that corporation and the conduct of its affairs.

22 With respect to an acupuncture corporation, the governmental
23 agency referred to in the Moscone-Knox Professional Corporation
24 Act is the ~~Acupuncture Board~~ *board*.

25 *SEC. 32. No reimbursement is required by this act pursuant*
26 *to Section 6 of Article XIII B of the California Constitution because*
27 *the only costs that may be incurred by a local agency or school*
28 *district will be incurred because this act creates a new crime or*
29 *infraction, eliminates a crime or infraction, or changes the penalty*
30 *for a crime or infraction, within the meaning of Section 17556 of*
31 *the Government Code, or changes the definition of a crime within*
32 *the meaning of Section 6 of Article XIII B of the California*
33 *Constitution.*